

AMENDED IN ASSEMBLY JUNE 18, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 363

Introduced by Assembly Member Garcia

February 14, 2003

An act to add Sections 17053.15 and 23608.15 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 363, as amended, Garcia. Income and corporation tax credits: health care.

The Personal Income Tax Law and the Corporation Tax ~~law~~ Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2004, for qualified taxpayers who provide health care coverage for their agricultural employees and their dependents. This bill would limit the aggregate amount of credits allocated to all taxpayers for each taxable year to \$80 million, adjusted, as provided. This bill would provide that each qualified taxpayer receive a credit equal to the taxpayer's pro rata share of the aggregate amount, based upon the amount of health care coverage costs paid or incurred by the taxpayer.

The bill would impose various duties on the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department in administering the bill, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.15 is added to the Revenue and
2 Taxation Code, to read:

3 17053.15. (a) For each taxable year beginning on or after
4 January 1, 2004, there shall be allowed as a credit as described in
5 this section against the “net tax,” as defined in Section 17039, to
6 a qualified taxpayer who provides health care coverage to his or
7 her agricultural employees and their dependents.

8 (b) The amount of the credit allowed to a qualified taxpayer
9 under subdivision (a) *for a taxable year* shall be an amount
10 allocated to that taxpayer by the Employment Development
11 Department pursuant to subdivision (d) *for the calendar year in*
12 *which the taxable year begins.*

13 (c) For purposes of this section:

14 (1) “Agricultural employee” means an employee as defined in
15 subdivision (b) of Section 1140.4 of the Labor Code.

16 (2) “Qualified health care coverage” means health care
17 coverage equivalent to a health care service plan under the
18 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
19 (commencing with Section 1340) of Division 2 of the Health and
20 Safety Code), or to a plan that would qualify under the Employee
21 Retirement Income Security Act of 1974 (P.L. 93-406), as
22 amended, and provides substantially the same minimum benefits
23 as required under the Knox-Keene Health Care Service Plan Act
24 of 1975.

25 (3) “Qualified taxpayer” means a taxpayer who either
26 employs agricultural employees directly or is a labor contractor
27 that employs agricultural employees for use by farmers, who does
28 both of the following:

29 ~~(A) Provides those employees and their dependents with~~
30 ~~qualified health care coverage in an amount equal to at least 80~~
31 ~~percent of the cost of that coverage.~~

32 ~~(B) Applies to the Employment Development Department, in~~
33 ~~the form and manner prescribed by the department, pursuant to~~
34 ~~subdivision (d) for the credit allowed pursuant to this section. A~~
35 ~~qualified taxpayer will be eligible for the credit for a taxable year~~

1 only if a completed application for that taxable year is filed with
2 the Employment Development Department on or before the
3 January 31 next following the taxable year for which the credit is
4 claimed.

5 (d) The Employment Development Department shall do all of
6 the following:

7 (1) Allocate an aggregate amount of tax credits to all qualified
8 taxpayers under this section and Section 23608.15 for each taxable
9 year beginning on or after January 1, 2004, in an amount equal to
10 eighty million dollars (\$80,000,000) increased annually by the
11 California Consumer Price Index.

12 (2) For each taxable year, allocate to each qualified taxpayer a
13 credit amount computed as follows:

14 (A) Divide the amount paid or incurred during the taxable year
15 by a qualified taxpayer for qualified health care coverage by the
16 sum of all the amounts so paid or incurred by all qualified
17 taxpayers during the taxable year for qualified health care
18 coverage.

19 (B) Multiply the total amount to be allocated for the taxable
20 year pursuant to paragraph (1) by the number calculated under
21 subparagraph (A) and round the result to the nearest dollar.

22 (C) Allocate to the taxpayer a credit in an amount equal to the
23 amount calculated under subparagraph (B).

24 (3) Provide written notification to each qualified taxpayer of
25 his or her credit amount by February 28 of the next following
26 taxable year for which the credit is claimed.

27 (4) Provide an annual list to the Franchise Tax Board,
28 preferably on computer readable form, and in the form and manner
29 agreed upon by the Franchise Tax Board and the Employment
30 Development Department, of qualified taxpayers and amount of
31 credit allocated to each.

32 (5) Notify all known qualified taxpayers regarding the
33 availability of the credit.

34 (6) Send each known qualified taxpayer an application to

35 (A) Pays or incurs at least 80 percent of the cost of qualified
36 health care coverage for those employees and their dependents.

37 (B) Applies to the Employment Development Department, in
38 the form and manner prescribed by that department, pursuant to
39 subdivision (d) for the credit allowed pursuant to this section. A
40 qualified taxpayer will be eligible for the credit for a taxable year

1 only if a completed application for the calendar year is filed with
2 the Employment Development Department on or before the
3 January 31 following the end of the calendar year for which the
4 credit is allocated.

5 (d) The Employment Development Department shall do all of
6 the following:

7 (1) Allocate an aggregate amount of tax credits to all qualified
8 taxpayers under this section and Section 23608.15 for each
9 calendar year beginning on or after January 1, 2004, in an amount
10 equal to the sum of the estimated amount of the increase of sales
11 and use tax revenue provided to the Employment Development
12 Department pursuant to Section 7105 for the calendar year and the
13 amount of that department's costs to administer this section.

14 (2) For each calendar year, allocate to each qualified taxpayer
15 a credit amount computed as follows:

16 (A) Divide the total amount paid or incurred during the
17 calendar year by a qualified taxpayer for qualified health care
18 coverage for the agricultural employee and the employee's
19 dependents by the sum of all the amounts so paid or incurred by
20 all qualified taxpayers during the calendar year for qualified
21 health care coverage.

22 (B) Multiply the total amount to be allocated for the calendar
23 year pursuant to paragraph (1) by the number calculated under
24 subparagraph (A) and round the result to the nearest dollar.

25 (C) Allocate to the taxpayer a credit in an amount equal to the
26 amount calculated under subparagraph (B).

27 (3) Provide written notification to each qualified taxpayer of
28 his or her credit amount by February 28 following the end of the
29 calendar year for which the credit is allocated.

30 (4) Provide an annual list to the Franchise Tax Board,
31 preferably on computer readable form, and in the form and manner
32 agreed upon by the Franchise Tax Board and the Employment
33 Development Department, of qualified taxpayers and amount of
34 credit allocated to each.

35 (5) Notify all known employers of agricultural employees
36 regarding the availability of the credit.

37 (6) Send each known employer of agricultural employees an
38 application to participate in the credit allocation for each taxable
39 year to which this section applies.

(7) Promulgate rules or regulations as deemed necessary to implement its duties under this section.

(e) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding five years if necessary, until the credit is exhausted.

(f) Any taxpayer that willfully fails to supply any information under this section with the intent to evade any tax imposed by this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false statement or application under this section or supplies any false or fraudulent information under this section, is punishable as provided by Section 19706, except that the fine imposed may be up to treble the amount specified by Section 19706.

SEC. 2. Section 23608.15 is added to the Revenue and Taxation Code, to read:

23608.15. (a) For each taxable year beginning on or after January 1, 2004, there shall be allowed as a credit as described in this section against the “tax,” as defined in Section 23036, to a qualified taxpayer who provides health care coverage to its agricultural employees and their dependents.

(b) The amount of the credit allowed to a qualified taxpayer under subdivision (a) *for a taxable year* shall be an amount allocated to that taxpayer by the Employment Development Department pursuant to subdivision (d) *for the calendar year in which the taxable year begins*.

(c) For purposes of this section:

(1) “Agricultural employee” means an employee as defined in subdivision (b) of Section 1140.4 of the Labor Code.

(2) “Qualified health care coverage” means health care coverage equivalent to a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), or to a plan that would qualify under the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as amended, and provides substantially the same minimum benefits as required under the Knox-Keene Health Care Service Plan Act of 1975.

(3) “Qualified taxpayer” means a taxpayer who either employs agricultural employees directly or is a labor contractor

1 that employs agricultural employees for use by farmers, who does
2 both of the following:

3 ~~(A) Provides those employees and their dependents with~~
4 ~~qualified health care coverage in an amount equal to at least 80~~
5 ~~percent of the cost of that coverage.~~

6 ~~(B) Applies to the Employment Development Department, in~~
7 ~~the form and manner prescribed by the department, pursuant to~~
8 ~~subdivision (d) for the credit allowed pursuant to this section. A~~
9 ~~qualified taxpayer will be eligible for the credit for a taxable year~~
10 ~~only if a completed application for that taxable year is filed with~~
11 ~~the Employment Development Department on or before the~~
12 ~~January 31 next following the taxable year for which the credit is~~
13 ~~claimed.~~

14 ~~(d) The Employment Development Department shall do all of~~
15 ~~the following:~~

16 ~~(1) Allocate an aggregate amount of tax credits to all qualified~~
17 ~~taxpayers under this section and Section 17053.15 for each taxable~~
18 ~~year beginning on or after January 1, 2004, in an amount equal to~~
19 ~~eighty million dollars (\$80,000,000) increased annually by the~~
20 ~~California Price Index.~~

21 ~~(2) For each taxable year, allocate to each qualified taxpayer a~~
22 ~~credit amount computed as follows:~~

23 ~~(A) Divide the amount paid or incurred during the taxable year~~
24 ~~by the qualified taxpayer for qualified health care coverage by the~~
25 ~~sum of all the amounts so paid or incurred by all qualified~~
26 ~~taxpayers during the taxable year for qualified health care~~
27 ~~coverage.~~

28 ~~(B) Multiply the total amount to be allocated for the taxable~~
29 ~~year pursuant to paragraph (1) by the number calculated under~~
30 ~~subparagraph (A) and round the result to the nearest dollar.~~

31 ~~(C) Allocate to the taxpayer a credit in an amount equal to the~~
32 ~~amount calculated under subparagraph (B).~~

33 ~~(3) Provide written notification to each qualified taxpayer of its~~
34 ~~credit amount by the February 28 next following the taxable year~~
35 ~~for which the credit is claimed.~~

36 ~~(4) Provide an annual list to the Franchise Tax Board,~~
37 ~~preferably on computer-readable form, and in the form and manner~~
38 ~~agreed upon by the Franchise Tax Board and the Employment~~
39 ~~Development Department, of qualified taxpayers and amount of~~
40 ~~credit allocated to each.~~

1 ~~(5) Notify all known qualified taxpayers regarding the~~
2 ~~availability of the credit.~~

3 ~~(6) Send each known qualified taxpayer an application to~~

4 (A) Pays or incurs at least 80 percent of the cost of qualified
5 health care coverage for those employees and their dependents.

6 (B) Applies to the Employment Development Department, in
7 the form and manner prescribed by that department, pursuant to
8 subdivision (d) for the credit allowed pursuant to this section. A
9 qualified taxpayer will be eligible for the credit for a taxable year
10 only if a completed application for the calendar year is filed with
11 the Employment Development Department on or before the
12 January 31 following the end of the calendar year for which the
13 credit is allocated.

14 (d) The Employment Development Department shall do all of
15 the following:

16 (1) Allocate an aggregate amount of tax credits to all qualified
17 taxpayers under this section and Section 17053.15 for each
18 calendar year beginning on or after January 1, 2004, in an amount
19 equal to the sum of the estimated amount of the increase of sales
20 and use tax revenue provided to the Employment Development
21 Department pursuant to Section 7105 for the calendar year and the
22 amount of that department's costs to administer this section.

23 (2) For each calendar year, allocate to each qualified taxpayer
24 a credit amount computed as follows:

25 (A) Divide the total amount paid or incurred during the
26 calendar year by a qualified taxpayer for qualified health care
27 coverage for the agricultural employee and the employee's
28 dependents by the sum of all the amounts so paid or incurred by
29 all qualified taxpayers during the calendar year for qualified
30 health care coverage.

31 (B) Multiply the total amount to be allocated for the calendar
32 year pursuant to paragraph (1) by the number calculated under
33 subparagraph (A) and round the result to the nearest dollar.

34 (C) Allocate to the taxpayer a credit in an amount equal to the
35 amount calculated under subparagraph (B).

36 (3) Provide written notification to each qualified taxpayer of
37 his or her credit amount by February 28 following the end of the
38 calendar year for which the credit is allocated.

39 (4) Provide an annual list to the Franchise Tax Board,
40 preferably on computer readable form, and in the form and manner

1 *agreed upon by the Franchise Tax Board and the Employment*
2 *Development Department, of qualified taxpayers and amount of*
3 *credit allocated to each.*

4 (5) *Notify all known employers of agricultural employees*
5 *regarding the availability of the credit.*

6 (6) *Send each known employer of agricultural employees an*
7 *application to participate in the credit allocation for each taxable*
8 *year to which this section applies.*

9 (7) *Promulgate rules or regulations as deemed necessary to*
10 *implement its duties under this section.*

11 (e) *In the case where the credit allowed by this section exceeds*
12 *the “tax,” the excess may be carried over to reduce the “tax” in*
13 *the following year, and the succeeding five years if necessary, until*
14 *the credit is exhausted.*

15 (f) *Any taxpayer that willfully fails to supply any information*
16 *under this section with the intent to evade any tax imposed by this*
17 *part, or who, willfully and with like intent, makes, renders, signs,*
18 *or verifies any false statement or application under this section or*
19 *supplies any false or fraudulent information under this section, is*
20 *punishable as provided by Section 19706, except that the fine*
21 *imposed may be up to treble the amount specified by Section*
22 *19706.*

23 SEC. 3. *This act provides for a tax levy within the meaning of*
24 *Article IV of the Constitution and shall go into immediate effect.*

